IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRI. APPLICATION NO. 2823 OF 2004

IN
CRIMINAL APPEAL NO.96/ 2004

VIJAY ARJUN WHAGAMBARE .. PETITIONER.
V/s.
The State of Maharashtra .. Respondent.

Mr. Sundeep R. Pasbola for Petitioner.
Mr. A.M. Shingarpure, APP for Respondent.

CORAM : V.M. KANADE, J.
DATED : 17.09.2004

PC :-

. Heard the learned Advocate appearing on behalf of the Applicant/ Petitioner. The Applicant was charged under section 376 (2)(g) of the Indian Penal Code and convicted by the trial court with sentenced to suffer R.I. for 10 years. The accused is in jail since 04.02.1999. The case of the prosecution is that the prosecutrix was working as a maid servant at Vakola, Mumbai and her mother was residing with her four children near Dadar Railway Station. The prosecutrix was staying with her friend Arun and she used to visit his house since 3.2.1999 and used to sleep in his house at night time. There was altercation between Arun and Mangala and therefore, Mangala left the house and came to Santacruz Railway Station at about 11.30 p.m. and proceeded to go to

her mother's house at Dadar. Train stopped at Khar Railway Station, where she met two police constables in the uniform. She accompanied them to the Railway Yard. She boarded the train and accused Nos. 1 and 2 assisted the prosecutrix to enter into a compartment. There the Applicant committed sexual intercourse without her consent and accused No.2 waited outside. The prosecution as examined the prosecutrix and also had adduced other evidence. The medical evidence, however, does not show that there were any injuries on the person of the prosecutrix. Apart from the evidence of the prosecutrix, there is no other eye witness to the said incident. The applicant is in jail since, 1999. The Appeal is not likely to come up for hearing, at least till the next year or so.

. In view of these circumstances, the applicant is entitled to be released on bail. The applicant be released on bail in the sum of Rs. 5000/- with one or two sure ties in the like amount. Criminal Application 2823/2004 is allowed and disposed of accordingly.

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